IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 1321 of 2005

Between:

K. Venkata Narasamma W/o Galaiah
R/o Nehru Nagar, Macherla, Guntur District

..... PETITIONER

AND

1 Government of AP rep by Chief Secretary, General Administration (Law & ORder-II)
Department, Secrtariat, Hyderabad
2 Collector and District Magistrate, Guntur, Guntur District
3 Superintendent, General Prison, Rajahmundry, East Godavari District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Habeas Corpus under Art. 226 of the Constitution of India directing the respondents to produce the person Mr. Kesamsetty Galaiah S/o Hanumaiah aged 50 years, who is detained in Central prison, Rajahmundry, pursuant to detention order, dt 24-8-2004 passed by the 2nd respondent in Proc. Sr. No. 02/04/B2 as confirmed by the 1st respondent under GO Rt No. 64o1, dt 8-11-2004, set him be free forthwith after declaring the said detention order as illegal and irregular and offends article 22 of Constitution of India and also provisions of AP Prevention Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No. 1 of 1986) and pass such other orders or order

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondent Nos.1 to 3: THE ADVOCATE GENERAL

The Court made the following Oral Order: (per Sri Bilal Nazki,J)

Smt. K. Venkata Narasamma has filed this petition against the order of detention passed under A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 by the District Collector detaining the husband of the petitioner by his order dated 24.8.2004. This order of detention has been challenged on various grounds.

Counter has also been filed.

We have heard the learned counsel for the parties and perused the record.

One of the grounds taken by the petitioner is that there is an inordinate delay in between the offences alleged to have been committed by the detenu. One of the offences that had been taken into consideration pertains to the year 2000 and another of 2001 and the third one is with regard to a case which was registered on 11.6.2002 and thereafter another case on 2.12.2003. Since, in between, these two cases are not proximate, therefore, these grounds are remote. In this case, reliance is placed on a judgment of the Supreme Court in COLLECTOR AND DISTRICT MAGISTRATE, ELURU, A.P. vs. SANGALA KONDEMMA & OTHERS ().

The learned Magistrate has also taken into consideration the offence alleged to have been committed by the wife of the detenu on 9.6.2004, which also, in our view is irrelevant.

For these reasons, we allow the writ petition, quash the order of detention and direct release of the detenu forthwith, if not required in any other case.

_____

BILAL NAZKI,J

DATE: 21St February, 2005

_____

Dr. G. YETHIRAJULU,J

Note: Communicate this order forthwith.

B/o.

Pnb

To

1 The Chief Secretary, General Administration (Law & ORder-II) Department, Government of AP, Secretariat, Hyderabad .
2 The Collector and District Magistrate, Guntur, Guntur District
3 The Superintendent, General Prison, Rajahmundry, East Godavari District

4. Two Ccs. to the Advocate General, High Court Buildings, Hyderabad. (OUT)

5. Two C.D. copies